

To: "Stevens, Chris@DeltaCouncil" [chris.stevens@deltacouncil.ca.gov]
Cc: []
Bcc: []
From: CN=Tom Hagler/OU=R9/O=USEPA/C=US
Sent: Fri 8/10/2012 4:34:22 AM
Subject: RE: could you give this the "once-over" if you have time?

We actually proposed a rule in December 1993 (published in FR early 1994) then finalized that rule in December 1994 (ditto published in early 1995). That rule is still technically on the books, and reflects the Accord numbers for the X2 standard. However, once we approved the state revisions to the WQCP (which were also consistent with the Accord), which they did in 1995, we approved the state rules and those state rules became the operative regs for all purposes (that is, for both state and CWA purposes).

Not sure how you would write that up in a short paragraph. Kind of inside baseball.

Note that Cliff Lee is still upset that EPA never formally withdrew the federal promulgation, even though we approved the state WQCP. There were reasons, at that time, that are probably no longer operable. But a withdrawal is a separate federal rulemaking, complete with public comment, and its hard for me to think it is constructive to start a federal rulemaking effort now, just as the SWRCB is starting its outflow revisions.

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-----"Stevens, Chris@DeltaCouncil" <chris.stevens@deltacouncil.ca.gov> wrote: -----
To: Tom Hagler/R9/USEPA/US@EPA
From: "Stevens, Chris@DeltaCouncil" <chris.stevens@deltacouncil.ca.gov>
Date: 08/09/2012 06:32PM
Subject: RE: could you give this the "once-over" if you have time?

one more thing over the second glass of wine?

where does the EPA proposed rulemaking come in--which is what felicia wanted mentioned. i thought it was per court order in absence of state action. but that the rules were pulled back when parties agreed to the accord.?

From: Tom Hagler [Hagler.Tom@epamail.epa.gov]
Sent: Thursday, August 09, 2012 5:55 PM
To: Stevens, Chris@DeltaCouncil
Subject: Re: could you give this the "once-over" if you have time?

Naw, that's kind of off in timing and sequencing. I'm on leave (down in San Diego, looking out over the

bay and ocean. Rough life).

Here is a very ugly rewrite:

"State and federal officials tried, often in conflict with each other, to deal with issues of water quality, protection of Delta fisheries, and water impacts on the state's urban and agricultural water users. The state and federal conflict came to head in the early 1990's, as endangered species listings by NMFS and FWS imposed export restrictions on urban and agricultural water users. SWRCB efforts to address aquatic resource degradation under the state water laws ground to a halt after the Governor complained about excessive federal interference under both the ESA and the CWA. In 1991, the U.S. EPA formally disapproved the SWRCB water quality control plan, and in 1992, Congress passed the CVPIA, which reallocated a significant portion of Federal (CVP) water supplies to environmental purposes. Virtually every action taken by a state or federal agency during this period ended up in court. Finally, faced with a paralysis in water policy decisionmaking, stakeholders from the urban, agricultural and environmental interest groups negotiated with state and federal agency leaders to complete the Bay Delta Accord in 1994. The Accord laid out a set of protective measures that would be incorporated into state and federal CWA and ESA regulatory decisions, and made some fundamental compromises in how the CVPIA would be implemented. The Accord gave all of the agencies and interest groups some breathing room.....

That's my two cents. No pride of ownership here. Not after a glass of wine.

I'm back in the office on the 16th if this can wait for fine tuning.

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-----"Stevens, Chris@DeltaCouncil" <chris.stevens@deltacouncil.ca.gov> wrote: -----
To: Tom Hagler/R9/USEPA/US@EPA
From: "Stevens, Chris@DeltaCouncil" <chris.stevens@deltacouncil.ca.gov>
Date: 08/09/2012 12:00PM
Subject: could you give this the "once-over" if you have time?

We're trying to finalize intro language in the delta plan, and Felicia (before she left) wanted a reference to EPA having proposed fed standards since the state didn't act back in 1994. This is sorta cobbled together from language that's in the current draft, and we want to keep it really short (but accurate). Any edits appreciated. C

heers, chris.

“State and federal officials tried, often in conflict with each other, to deal with issues of water quality, protection of Delta fisheries, and water impacts on the state’s huge agricultural industry. The SWRCB worked to draft and adopt state standards for water quality without jeopardizing agriculture, and environmentalists mounted legal attacks alleging that the standards were not protective enough for fish. In addition the U.S. Environmental Protection Agency (US EPA) determined that the proposed standards did not comply with the Clean Water Act. Around this same chaotic time Congress adopted the Central Valley Project Improvement Act, which reallocated a portion of CVP water supplies to benefit fisheries and the ecosystem. A subsequent attempt by the SWRCB to adopt more protective standards was unsuccessful after then-Governor Wilson asked that they be withdrawn.. Finally, faced with a court-ordered deadline to assert federal jurisdiction pursuant to the Clean Water Act in the absence of state action, US EPA exercised its jurisdiction and proposed federal water quality standards for the Bay-Delta. The proposed federal standards were ultimately pulled back as part of the Bay-Delta Accord signed in December 1994.

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